

1 HOUSE BILL NO. 838  
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 4 ETCHART, R. GREGG, S. KELLY

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF PARTY  
 7 AFFILIATION FOR CERTAIN NONPARTISAN JUDICIAL RACES; ALLOWING CANDIDATES FOR CHIEF  
 8 JUSTICE OF THE SUPREME COURT OR JUSTICE OF THE SUPREME COURT TO INDICATE A POLITICAL  
 9 PARTY AFFILIATION ON A DECLARATION FOR NOMINATION AND TO HAVE THAT AFFILIATION  
 10 APPEAR ON THE PRIMARY AND GENERAL BALLOTS; ALLOWING CANDIDATES FOR CHIEF JUSTICE  
 11 OF THE SUPREME COURT OR JUSTICE OF THE SUPREME COURT TO ANNOUNCE POLITICAL  
 12 AFFILIATIONS AND ENDORSEMENTS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 13-10-  
 13 209, 13-10-602, 13-12-203, 13-14-112, 13-14-115, AND 13-14-212, MCA; AND PROVIDING AN EFFECTIVE  
 14 DATE AND AN APPLICABILITY DATE."

15  
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 18 **NEW SECTION. Section 1. Indication of political party affiliation by candidate for chief justice**  
 19 **or supreme court justice.** A candidate for the office of chief justice of the supreme court or the office of justice  
 20 of the supreme court may indicate the candidate's political party affiliation on the candidate's declaration for  
 21 nomination.

22  
 23 **NEW SECTION. Section 2. Announcement of political party affiliation or endorsement by**  
 24 **candidate for chief justice or supreme court justice.** A candidate for the office of chief justice of the  
 25 supreme court or the office of justice of the supreme court may announce the candidate's political party  
 26 affiliation or a campaign endorsement that the candidate has received.

27  
 28 **Section 3.** Section 13-10-209, MCA, is amended to read:

1           **"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election  
2 must be arranged and prepared in the same manner and number as provided in chapter 12 for general election  
3 ballots, except that there must be separate ballots for each political party entitled to participate. The name of  
4 the political party must appear at the top of the separate ballot for that party and need not appear with each  
5 candidate's name.

6           (b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on  
7 the same ballot as partisan offices if:

8           (i) each section is clearly identified as separate; and

9           (ii) the nonpartisan offices and ballot issues appear on each party's ballot.

10          (2) Except as provided in subsection (3), an election administrator does not need to prepare a  
11 primary ballot for a political party if:

12          (a) the party does not have candidates for more than half of the offices to appear on the ballot; and

13          (b) no more than one candidate files for nomination by that party for any of the offices to appear on  
14 the ballot.

15          (3) Subsection (2) does not apply to elections for precinct committee offices. If more than one  
16 candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that  
17 party shall select the candidate to fill the office.

18          (4) If, pursuant to subsection (2), in a primary election held in an even-numbered year a primary  
19 ballot for a political party is not prepared, the secretary of state shall certify that a primary election is  
20 unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for  
21 that party for the general election ballot only.

22          (5) The separate ballots for each party must have the same appearance. Each set of party ballots  
23 must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different  
24 appearance than the party ballots but must be numbered in the same order as the party ballots.

25          (6) (a) Regardless of whether the election administrator has prepared separate ballots for  
26 nonpartisan offices or has listed nonpartisan candidates on the same ballots as partisan candidates, if a  
27 candidate for the office of chief justice of the supreme court or the office of justice of the supreme court  
28 indicates the candidate's political party affiliation on a declaration for nomination, the candidate's name must

1 appear under the title of the office sought, with the name of the candidate's political party affiliation, if any, in no  
2 more than three words appearing opposite or below the candidate's name.

3 (b) If a candidate for chief justice of the supreme court or for justice of the supreme court did not  
4 indicate a political party affiliation, the name of the candidate must appear with the word "Nonpartisan".

5 (6)(7) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan  
6 ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the  
7 election but must be numbered in the same order.

8 (7)(8) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue  
9 choices."

10

11 **Section 4.** Section 13-10-602, MCA, is amended to read:

12 **"13-10-602. Use of party name.** (1) Except as provided in subsection (3), a political party and its  
13 regularly nominated candidates, members, and officers have the sole and exclusive right to the use of the party  
14 name. A Except as provided in [section 1], a candidate for office may not use any word of the name of any  
15 other political party or organization other than that by which the candidate is nominated in a manner that  
16 indicates or implies the individual is a candidate of the nonnominating party.

17 (2) An independent or nonpartisan candidate, except as provided in [section 1] or subsection (3) of  
18 this section, may not use any word of the name of any existing political party or organization in the candidacy in  
19 a manner that indicates or implies that the individual is a candidate of that party or organization.

20 (3) A candidate for an elective office under an elected county official government provided for in 7-  
21 3-111 who is running in an election conducted after electors have approved a change pursuant to 7-3-103(4) in  
22 the type of election held from partisan to nonpartisan may use a party name or symbol in the candidate's  
23 campaign material."

24

25 **Section 5.** Section 13-12-203, MCA, is amended to read:

26 **"13-12-203. Appearance of candidate's name and party designation on ballot.** (1) Subject to 13-  
27 12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates,  
28 in partisan elections, candidates' names must appear under the title of the office sought, with the name of the

1 party in not more than three words appearing opposite or below the name.

2 (2) (a) Subject Except as provided in subsection (2)(b) and subject to 13-12-202, in nonpartisan  
3 general elections, the candidates' names must appear under the title of the office sought, with no description or  
4 designation appearing with the name unless partisan and nonpartisan offices appear on the same ballot. In  
5 such a case, the names of nonpartisan candidates must appear with the word "Nonpartisan".

6 (b) In an election for chief justice of the supreme court or for justice of the supreme court, the  
7 candidate's name must appear under the title of the office sought, with the name of the candidate's political  
8 party affiliation, if any, in no more than three words appearing opposite or below the candidate's name. If a  
9 candidate for chief justice of the supreme court or for justice of the supreme court did not indicate a political  
10 party affiliation, the name of the candidate must appear with the word "Nonpartisan".

11 (3) Except as otherwise provided by this section, information about the candidate other than the  
12 candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

13

14 **Section 6.** Section 13-14-112, MCA, is amended to read:

15 **"13-14-112. Declarations for nomination -- fee -- filing.** (1) Nonpartisan candidates shall file  
16 declarations for nomination as required by the primary election laws in a form prescribed by the secretary of  
17 state except as provided in 13-14-113. Except for a candidate covered under 7-1-205, a candidate may not file  
18 for more than one public office.

19 (2) (a) Declarations Except as provided in subsection (2)(b), a declaration may not indicate political  
20 affiliation. The, and the candidate may not state in the declaration any principles or measures that the candidate  
21 advocates or any slogans.

22 (b) A candidate for chief justice of the supreme court or for justice of the supreme court may  
23 indicate the candidate's political party affiliation on the declaration. A candidate who does not indicate a political  
24 party affiliation on the declaration may list "Nonpartisan".

25 (3) Each individual filing a declaration shall pay the fee prescribed by law for the office that the  
26 individual seeks.

27 (4) Declarations must be filed:

28 (a) in the office of the secretary of state or the appropriate election administrator as provided in 13-

1 10-201; and

2 (b) within the filing period provided in 13-10-201(7) for the office that the individual seeks."

3

4 **Section 7.** Section 13-14-115, MCA, is amended to read:

5 **"13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on**  
6 **conducting primary.** (1) The election administrators shall arrange, prepare, and distribute primary ballots for  
7 nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as  
8 provided in 13-10-209 and be without political designation, except as provided in 13-10-209 and 13-12-203 for  
9 a candidate for the office of chief justice of the supreme court or the office of justice of the supreme court.

10 (2) (a) Except as provided in subsection (2)(b), the election administrator of a political subdivision  
11 may determine that a local nonpartisan portion of a primary election need not be held if:

12 (i) the number of candidates for an office exceeds three times the number to be elected to that  
13 office in no more than one-half of the offices on the ballot; and

14 (ii) the number of candidates in excess of three times the number to be elected is not more than  
15 one for any office on the ballot.

16 (b) The election administrator may determine that a primary election for a nonpartisan county office  
17 need not be held if fewer than three candidates have filed for that office.

18 (c) If the election administrator determines that a primary election must be held pursuant to  
19 subsection (2)(a) or (2)(b), the election administrator shall conduct the primary election only for the nonpartisan  
20 offices that have a sufficient number of candidates that have filed to be elected to that office.

21 (d) If the election administrator determines that a primary election need not be held pursuant to  
22 subsection (2)(a), (2)(b), or (2)(c) for a nonpartisan office, the administrator shall give notice to the governing  
23 body that a primary election will not be held for that office.

24 (3) The governing body may require that a primary election be held for a nonpartisan office if it  
25 passes a resolution not more than 10 days after the close of filing by candidates for election stating that a  
26 primary election must be held for that office."

27

28 **Section 8.** Section 13-14-212, MCA, is amended to read:

1           **"13-14-212. Form of ballot on retention of certain incumbent judicial officers.** (1) If the  
 2 incumbent is the only candidate for the office of ~~chief justice, supreme court justice,~~ district court judge, or  
 3 justice of the peace, the election administrator may not include a nonpartisan designation or write-in space for  
 4 the office on the general election ballot. The name of the incumbent must be placed on the official ballot for the  
 5 general election as follows:

6           Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the  
 7 state of Montana be retained in office for another term?

8           (2) If the incumbent is the only candidate for the office of chief justice of the supreme court or the  
 9 office of justice of the supreme court, the election administrator may not include a nonpartisan or political party  
 10 designation or a write-in space for the office on the general election ballot. The name of the incumbent must be  
 11 placed on the official ballot for the general election as follows:

12           Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the  
 13 state of Montana be retained in office for another term?

14           (2)(3) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-  
 15 202, for a voter to indicate a "yes" or "no" vote."

16  
 17           NEW SECTION. Section 9. Appropriation. There is appropriated \$5,000 from the general fund to  
 18 the secretary of state for the purposes of updating the secretary of state's website and performing computer  
 19 programming related to judicial elections.

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 21           NEW SECTION. Section 10. Codification instruction. (1) [Section 1] is intended to be codified as an  
 22 integral part of Title 13, chapter 14, part 2, and the provisions of Title 13, chapter 14, part 2, apply to [section 1].

23           (2) [Section 2] is intended to be codified as an integral part of Title 13, chapter 35, part 2, and the  
 24 provisions of Title 13, chapter 35, part 2, apply to [section 2].

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 26           NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2025.

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 28           NEW SECTION. Section 12. Applicability. [This act] applies to primary and general elections for the

1 office of chief justice of the supreme court or the office of justice of the supreme court held on or after January  
2 1, 2026.

3 - END -